

## **The complaint**

Mr R is unhappy that Embark Investment Services Ltd, trading as Scottish Widows platform, failed to collect his monthly direct debit (DD) premiums since 2017.

## **What happened**

Mr R had a pension with Zurich, into which he'd been paying monthly premiums via direct debit. In 2017, he met with his financial advisor and agreed to increase his premiums to £200 per month. The necessary forms were completed and sent to Zurich to process.

In the intervening years, the policy was taken over by Advance by Embark, and more recently Embark as detailed above. For ease of reference, however, I'll refer only to Embark in the remainder of this Decision.

In September 2023, Mr R met with his financial advisor again, and noticed no payments had been made into his pension policy since the intended premium increase in 2017. He questioned this with Embark, who had in the interim period taken over the responsibility for the policy. Embark acknowledged they'd (or Zurich, before them) made a mistake by not setting the DD instruction up properly. But they also felt Mr R (and his advisor) would or should have realised it hadn't been set up, so they didn't uphold Mr R's complaint. But they did pay Mr R £100 compensation for the distress their actions caused him.

Unhappy with this, Mr R brought his complaint to our Service. However, one of our Investigators essentially agreed with Embark. He thought that, notwithstanding misleading documentation having been provided by Embark over the period, Mr R's financial advisor could have noted and queried the lack of policy growth, and also that some statements clearly showed no payments had been made. Our investigator also thought Mr R would have noticed that no payments were being made from his bank account. But he did think Embark should increase their compensation offer to £300 in total.

Mr R didn't agree with our Investigator's conclusion. He acknowledged that he could have spotted the DD wasn't being collected but countered this by explaining he'd initially set up the policy DD many years beforehand (without issue) and felt there should have been no reason for him to monitor it after he increased his premiums. He also said that Embark had not sent regular documents by post. He thought a fairer outcome would be for the three parties involved, Mr R, Embark and his advisor, to share responsibility for the error. He further wondered whether the guarantees provided under the DD system should have given him extra protection and/or compensation for the investment loss he'd experienced.

Mr R asked that an Ombudsman undertake a fresh review of his complaint, and so it's been passed to me for that purpose.

## **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

It's not in dispute that Embark made a mistake by not processing the DD instruction properly – they've accepted they received it in 2017 but failed to authorise or process it correctly – so I don't need to consider or comment on this here. Instead, I need to consider the extent to which Embark are liable for the financial effect of their admitted mistake.

#### *Documents sent to Mr R by Embark*

I want to begin by considering the information Embark sent to Mr R over the period in question. I can see there has been some contradictory documents generated by Embark.

On the one hand, I've been provided with copies of Embark's portfolio statements, addressed to Mr R at his current address, dated 4 August 2018 and 27 October 2018. These clearly record there weren't any regular payments received into the policy in the previous quarters. Whilst I haven't been provided with copies of every quarterly statement produced in the period in question, I'm satisfied the ones I have seen would have been sent to Mr R (and presumably received by him). And I also think they are sufficiently clear, and so capable of alerting Mr R, his policies weren't receiving the DD contributions he'd asked to be set up.

Conversely, I've also seen a copy of an 'Advance Portfolio' document, summarising the portfolio as at 13 October 2023 – this shows money received in the previous 12 months, described as a "regular payment" totalling £2,400. And it records "regular payments in" of £200 per month. This is clearly contradictory (and wrong). However, this only appears to have been generated in October 2023, shortly after Mr R and his advisor became aware of the problem. Accordingly, I don't think it adds anything in support of Mr R's complaint – it only appears to have been generated after the DD issue became known.

#### *Mr R's awareness that the DD wasn't being collected*

I acknowledge Mr R's point that he wouldn't have felt it necessary, in practice, to check that his DD was working as intended. He says he doesn't check the status of his other everyday DD payments, because he expects them to work seamlessly once set up. I understand his rationale here, as a DD is in many respects designed for that purpose – to allow something to be regularly paid without any further customer input.

However, I don't think that point can be considered in isolation here. Whilst I don't know how Mr R manages his monthly financial affairs (and don't need to, here), I think it would have been evident to Mr R fairly quickly in the period in question that the payment wasn't being made. Mr R tells us that he was "a low paid worker", and whilst I don't know (or need to know) how much he was paid, I think it's reasonable to conclude he was likely to have paid attention to his monthly finances. And that being so, I think it's reasonable to conclude he was likely to have been aware, or at least in possession of information (his bank account) that could have made him aware, that the DD wasn't being paid.

#### *Calculating if Mr R has experienced any financial loss*

First and foremost, it's clear that Mr R's policy is now worth considerably less than if his £200 per month DD contributions had been made between 2017 and 2023. And potential investment growth has been lost too, although I note the fund value remained fairly static between 2017 and 2023, after taking account of charges that continued to be levied.

However, whilst Mr R's pension fund was deprived of these DD payments, Mr R conversely retained the use of the funds each month personally - his pension didn't benefit from receiving the £200 per month DD, but he did by having access to an extra £200 per month in everyday funds. I've don't know, or need to know, what he used those funds for and what benefit they gave him (that he wouldn't have had if the DD payments had been made). But it

does mean it's difficult to calculate what financial loss, if indeed any, Mr R has experienced as a result of Embark's mistake.

### *Conclusion*

I fully appreciate Mr R's strength of feeling in this matter, especially given there was a clear and admitted mistake by Embark in 2017. However, given everything I've said above, I can't fairly conclude that Embark have caused Mr R any financial loss, and so I won't be asking them to do anything further to provide redress in relation to the uncollected DD payments.

### *Distress and Inconvenience.*

Embark agreed with our Investigator's request that they pay Mr R an additional £200 compensation for the distress their actions have caused.

The amounts this Service awards for D&I are fairly modest in value. Our D&I awards are not designed to punish a business, but rather to put a monetary value on the distress a business' actions have caused. Guidelines setting out our approach to such awards can be found on our website.

In this case, whilst Embark's mistake stretches back to 2017, Mr R only became aware of the problem towards the end of 2023. As such, he would only have begun to experience distress from that point onwards. Given that, and conscious of our own guidelines, I think £300 in total represents fair compensation here. And so, on the basis Embark have already paid Mr R £100, I'll be asking them to pay him a further £200 compensation for the distress they caused him to settle this complaint.

### **My final decision**

I uphold Mr R's complaint against Embark Investment Services Ltd, trading as Scottish Widows platform, and require them to pay him further compensation of £200 for the distress their actions have caused him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 19 April 2024.

Mark Evans  
**Ombudsman**